

EXHIBIT A

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION

| | | |
|------------------------------|---|----------------|
| LUANA SCOTT, on behalf of |) | |
| herself and others similarly |) | |
| situated, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | 7:08-CV-16-LSC |
| |) | |
| FAMILY DOLLAR STORES, |) | |
| INC., |) | |
| |) | |
| Defendant. |) | |

ORDER

The Court currently has two motions for consideration. Defendant, Family Dollar Stores, Inc. ("Family Dollar"), filed a Motion for Transfer on January 17, 2008. (Doc. 3.) On that same day, Plaintiffs filed a Motion to Stay. (Doc. 4.)

Plaintiffs filed the current action on January 3, 2008, alleging that Family Dollar willfully and intentionally failed to pay overtime to managerial employees who worked more than forty hours per week in violation of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201, et seq. (Doc. 1.) Defendant submits that this case should be transferred to the United States District Court for the Western District of North Carolina pursuant to 28 U.S.C. § 1404(a) ("§ 1404(a)") for the convenience of the witnesses and parties, it would serve the interests of justice,

many of the related documents and accounting records are located in North Carolina, and because it would be in the public interest. (Doc. 3.) Plaintiffs submit that this cause should be stayed pending a ruling on the Motion to Transfer in: *In re Family Dollar Stores, Inc. Wage and Hour Employment Practices Litigation*, (MDL Doc. #1932) currently pending at the United States Judicial Panel on Multidistrict Litigation. *See generally* Docs. 4, 16.

When considering Defendant's motion to transfer under section 1404(a), the Court must determine whether the actions could have originally been brought in the proposed transferee district court; then, whether the action should be transferred for the convenience of the parties and in the interest of justice. *See generally C.M.B. Foods, Inc. V. Corral of Middle Ga.*, 396 F. Supp. 2d 1283, 1286 (M.D. Ala. 2005). During the last four years, eleven other collective actions against Family Dollar alleging wrongful denial of overtime compensation in violation of the FLSA have been transferred to Charlotte, North Carolina pursuant to Section 1404(a), including one by this Court with almost identical factual allegations. *See Ward v. Family Dollar Stores of Alabama, Inc.*, 2006 U.S. LEXIS 96846 (N.D. Ala. Sept. 29, 2006); *see also Rowe v. Family Dollar, Inc.*, No. 1:03-cv-1737-LJM-WTL (S.D. Ind. Jan. 26, 2004); *Anderson v. Family Dollar, Inc.*, No. CIV-04-0210-F (W.D. Okla. April 30, 2004); *Medley v. Family Dollar, Inc.*, No. 1:03-cv-00082 (M.D. Tenn. May 12, 2004); *Lucas v. Family Dollar Stores of Oklahoma*,

Inc., No. Civ.-04-536-0892 (W.D. Okla. March 9, 2005); *Broussard v. Family Dollar, Inc.*, 2006 U.S. Dist. LEXIS 6587 (W.D. La. Jan. 31, 2006); *Grace v. Family Dollar Stores, Inc.*, No. 6:04-CV-22 (M.D. Ga. July 14, 2006); *Ingram v. Family Dollar Stores of Alabama, Inc.*, No. CV-06-BE-1507-S, 2006 U.S. Dist. LEXIS 96845 (N.D. Ala. Sept. 29, 2006); *Blake, et. al. v. Family Dollar Stores, Inc. et. al.*, No. 2:07-cv-361 (S.D. Ohio June 19, 2007); *Fowler, et. al. v. Family Dollar Stores, et. al.*, No. 1:07-cv-250 (S.D. Ohio July 26, 2007); *Slater, et. al. v. Family Dollar Stores, Inc.*, No. 3:07cv119-JLS (S.D. Miss. Oct. 26, 2007).

There are two reasons that compel the Court to deny the Motion to Stay and rule on Defendant's motion to transfer. First, a motion to consolidate and transfer before a Multidistrict Litigation Panel does not serve to stay the cases that are subject to the motion, nor does such a motion limit the Court from acting on matters properly before it. See Rules of Procedure, Judicial Panel of Multidistrict Litigation, Rule 1.5. Second, a ruling by the Multidistrict Litigation Panel does not affect the need or validity of Defendant's motion to transfer. In the event that the Panel declines to consolidate and transfer the related cases, the Motion to Transfer would then need to be decided. On the other hand, if the Panel does consolidate and transfer this case, the question of which court will preside over the trial remains a matter to be decided by this Court. See *Lexicon, Inc. V. Milberg, Weiss, Bershad, Hynes, & Lerach*, 523 U.S. 26 (1998) (holding that

the transferee court cannot permanently transfer the case to itself pursuant to Section 1407(a)).

Accordingly, guided by the same reasoning as previously stated by this Court in *Ward v. Family Dollar Stores, Inc.* (Case No. 7:06-cv-1060-LSC, Doc. 30), Defendant's motion to transfer (Doc. 3) is GRANTED and Plaintiffs motion to stay is DENIED. The Clerk of Court is hereby directed to TRANSFER this case to the United States District Court for the Western District of North Carolina.

Done this 4th day of March 2008.



L. SCOTT COOGLER
UNITED STATES DISTRICT JUDGE
153671

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION**

**ROSIE MAGWOOD, on behalf of herself
and others similarly situated,**

Plaintiff,

No. 1:08-cv-76-WHA

vs.

Judge W. Harold Albritton, III

FAMILY DOLLAR STORES, INC.,

Defendant.

**DEFENDANT’S MOTION FOR LEAVE TO
FILE ADDITIONAL SUPPLEMENTAL AUTHORITY**

Defendant Family Dollar Stores, Inc. (“Family Dollar”), hereby submits its Motion for Leave to File Additional Supplemental Authority. In support thereof, Family Dollar states as follows:

1. On February 20, 2008, Family Dollar filed its Motion to Transfer Venue Pursuant to 28 U.S.C. § 1404(a).
2. On March 4, 2008, Judge L. Scott Coogler of the Northern District of Alabama granted Family Dollar’s Motion to Transfer Venue to the Western District of North Carolina (filed pursuant to 28 USC § 1404), in a case also involving nearly identical allegations of failure to pay Company employees overtime in violation of the Fair Labor Standards Act. *See Exhibit A, attached hereto.*
3. Therefore, in addition to the authority cited in Family Dollar’s Motion to Transfer Venue, Family Dollar respectfully requests this Court to also consider *Scott v. Family Dollar Stores, Inc.*, 7:08-CV-16-LSC (N.D. Ala, March 4, 2008).

WHEREFORE, Defendant, Family Dollar Stores, Inc., respectfully requests leave to supplement authority for the Court's consideration.

Respectfully submitted,

/s/ Terry Price

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing on the 4th day of March, 2008 with the Clerk of the Court by using the CM/ECF system, which will send electronic copies to: Bobbie S. Crook, 367 S. St. Andrews Street, Dothan, AL 36301, BCrook100@aol.com.

/s/ Terry Price

Terry Price

Birmingham:20200.1